

# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44*bis*)

Applicant's or agent's file reference wmpo01141.WO	<b>FOR FURTHER ACTION</b>	See item 4 below
International application No. PCT/EP2007/005824	International filing date ( <i>day/month/year</i> ) 02 July 2007 (02.07.2007)	Priority date ( <i>day/month/year</i> ) 29 July 2006 (29.07.2006)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant KRONES AG		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 *bis*.1(a).

2. This REPORT consists of a total of 7 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- |                                     |              |   |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I    | Basis of the report   |
| <input checked="" type="checkbox"/> | Box No. II   | Priority  |
| <input type="checkbox"/>            | Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/>            | Box No. IV   | Lack of unity of invention  |
| <input checked="" type="checkbox"/> | Box No. V    | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/>            | Box No. VI   | Certain documents cited   |
| <input type="checkbox"/>            | Box No. VII  | Certain defects in the international application  |
| <input type="checkbox"/>            | Box No. VIII | Certain observations on the international application   |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44*bis*.3(c) and 93*bis*.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44*bis*.2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Date of issuance of this report 17 February 2009 (17.02.2009)
Facsimile No. +41 22 338 82 70	Authorized officer  <div style="text-align: center; font-weight: bold;">Yolaine Cussac</div> e-mail: pt05.pct@wipo.int

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

TRANSLATION

PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43*bis*.1)

To:

Date of mailing (day/month/year)	See form PCT/ISA/210
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Applicant's or agent's file reference <b>wmpo01141.WO</b>	<b>FOR FURTHER ACTION</b> See paragraph 2 below
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International application No. <b>PCT/EP2007/005824</b>	International filing date (day/month/year) <b>02.07.2007</b>	Priority date (day/month/year) <b>29.07.2006</b>
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International Patent Classification (IPC) or both national classification and IPC <b>B65G47/51 B65G47/84</b>
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Applicant <b>KRONES AG</b>
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1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1*bis*(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Date of completion of this opinion	Authorized officer
Facsimile No.		Telephone No.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

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Box No. I      Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of:
  - ☒ the international application in the language in which it was filed
  - ☐ the translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (Rule 12.3(a) and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material
    - ☐ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material
    - ☐ on paper
    - ☐ in electronic form
  - c. time of filing/furnishing
    - ☐ contained in the international application as filed
    - ☐ filed together with the international application in electronic form
    - ☐ furnished subsequently to this Authority for the purposes of search
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. II

Priority

1. ☒ The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43bis.1 and 64.1) is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

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Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	<u>1-9</u>	YES
	Claims	_____	NO
Inventive step (IS)	Claims	<u>1-9</u>	YES
	Claims	_____	NO
Industrial applicability (IA)	Claims	<u>1-9</u>	YES
	Claims	_____	NO
2. Citations and explanations:			
<p>1 Reference is made to the following documents:</p> <p style="margin-left: 40px;">D1: DE 199 28 325 A1 (KRONES AG [DE]) 28 December 2000 (2000-12-28)</p> <p style="margin-left: 40px;">D2: US-B1-6 446 781 (DE VILLELE DAMIEN) 10 September 2002 (2002-09-10)</p> <p>2 Document D1, which is considered to be the closest prior art, describes (cf. figure 1; the references between parentheses apply to this document):</p> <p style="margin-left: 40px;">A conveying apparatus (6-9) for articles (1), having a first conveyor (9), a second conveyor (7) and a buffer (11, 32) which is arranged therebetween and is connected to the first and the second conveyors via a first transfer location, wherein the first and the second conveyors (9, 7) are connected to the buffer separately from one another via a first transfer location in each case (column 3, lines 61-65), and a switchable intermediate conveyor (6) which bypasses the buffer is provided (column 4, lines 4-6),</p> <p style="text-align: center; margin-top: 20px;">from which the subject matter of independent claim 1</p>			

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

differs in that

the intermediate conveyor is in conveying connection with the first and the second conveyors via a respective second transfer location (which is separate in the sense of the respectively first transfer location).

2.1 The subject matter of claim 1 is thus novel (PCT Article 33(2)).

The distinguishing feature has the effect that the initial positioning of the buffer store, which extends essentially tangentially from the star wheel 9 or, conversely, to the star wheel 8, is separate from the common tangent to the star wheels 9 and 6 and/or 6 and 7. The problem addressed by the present invention can therefore be considered that of providing a conveying apparatus which can be adapted in flexible fashion to different buffer solutions and, in particular, buffer positionings.

2.2 The solution to this problem, as proposed in claim 1 of the present application, is considered to involve an inventive step (PCT Article 33(3)), for the following reasons:

Although it is known, in the relevant field, to form diverters by means of star wheels of which the transfer locations are unavoidably offset at an angle, see, for example D2, this does not necessarily mean that a person skilled in the art would assign such diverters to the star wheels 9 and 7 known from D1, since the star wheel 6 is also

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

available as a buffer connection. Furthermore, it is questionable whether a person skilled in the art, in view of the obviously constricted space conditions in the filling arrangement as per D1, would even attempt any modification.

- 2.3 Claims 2-9 are dependent on claim 1 and as such likewise meet the PCT requirements of novelty and inventive step.